

ESTTA Tracking number: **ESTTA129368**

Filing date: **03/12/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Dallas Cowboys Football Club, Inc.
Granted to Date of previous extension	03/11/2007
Address	Cowboys CenterOne Cowboys Parkway Irving, TX 75063-4727 UNITED STATES

Name	NFL Properties LLC
Granted to Date of previous extension	03/11/2007
Address	280 Park Avenue New York, NY 10017 UNITED STATES

Attorney information	Lori E. Weiss Quinn Emanuel Urquhart Oliver & Hedges LLP 51 Madison Avenue New York, NY 10010 UNITED STATES loriweiss@quinnemanuel.com Phone:212-849-7261
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Applicant Information

Application No	78792639	Publication date	09/12/2006
Opposition Filing Date	03/12/2007	Opposition Period Ends	03/11/2007
Applicant	Wohlfahrt, Arlan Michael 9384 W. Finland Dr. Littleton, CO 80127 UNITED STATES		

Goods/Services Affected by Opposition

Class 025.

All goods and services in the class are opposed, namely: Men's, women's and children's clothing, namely, T-shirts, shirts, tank tops, sweatshirts, sweatpants, sleepwear, bathing suits, pants; socks, shorts, hats, caps


Attachments	FN Opposition.pdf (7 pages)(117861 bytes)
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Signature	/Lori E. Weiss/
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Name	Lori E. Weiss
Date	03/12/2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 78/792,639
Published in the Official Gazette on September 12, 2006

Mark: 

DALLAS COWBOYS FOOTBALL CLUB,
INC. and NFL PROPERTIES LLC,

Opposers,

-against-

ARLAN MICHAEL WOHLFAHRT


Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

TO THE COMMISSIONER FOR TRADEMARKS:

Opposers Dallas Cowboys Football Club, Inc. and NFL Properties LLC believe


they will be damaged by registration of the designation , as shown in the above-identified application and hereby oppose the same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the "Lanham Act"), 15 U.S.C. § 1063(a).

As grounds for the opposition, Opposers allege that:

1. Opposer Dallas Cowboys Football Club, Inc. (the "Cowboys" or "Cowboys Club") is a Texas corporation with its principal place of business at Cowboys Center, One Cowboys Parkway, Irving, Texas 75063, which owns and operates a professional football team, providing entertainment services to the public in the form of competitive professional

football games. The Cowboys Club is one of the thirty-two member clubs (the “Member Clubs”) of the National Football League (“NFL”).

2. Opposer NFL Properties LLC (“NFLP”) is a limited liability company organized and existing under the laws of Delaware with its principal place of business at 280 Park Avenue, New York, New York 10017. NFLP represents the NFL and its thirty-two Member Clubs for the licensing and protection of their names, logos, symbols, and other identifying marks and is charged with protecting these marks and the rights of the NFL and the Clubs with respect thereto.

3. For many years, and long before January 17, 2006, the filing date of Applicant’s intent-to-use application, Opposers have used the star design mark, , and variations thereof (collectively, the “Cowboys’ Star” or “Cowboys Star Marks”) in connection with their business of organizing, conducting, and promoting the Cowboys football franchise. In addition to their common law rights in those marks, the Cowboys own several federal and state trademark registrations for the Cowboys Star Marks for use in connection with entertainment services in the form of football games and exhibitions.

4. For many years, and long before January 17, 2006, the filing date of Applicant’s intent-to-use application, Opposers and their authorized business partners, sponsors, and/or licensees have used the Cowboys Star Marks on or in connection with the sale of a wide variety of services and goods, including apparel.

5. Opposers actively seek to identify and stop perceived infringers of the Cowboys Star Marks.

6. During their long, widespread and continuous use of the Cowboys Star Marks, Opposers and their authorized business partners, sponsors, and licensees have expended considerable time, effort, and money in advertising and publicizing the sale of goods and services bearing the Cowboys Star Marks.

7. Opposers and their licensees and sponsors have sold, and offered for sale, goods and services bearing the Cowboys Star Marks, in a trading area of broad geographical scope encompassing, *inter alia*, all of the states and territories of the United States.


8. Opposers and their licensees and sponsors have sold, and offered for sale, goods and services bearing the Cowboys Star Marks in numerous channels of trade.








9. For many years, and long before January 17, 2006, the filing date of Applicant's intent-to-use application, the print and broadcast media and the general public have used the Cowboys Star Marks in connection with the Cowboys, the NFL, and NFLP.

10. Opposers' widespread use of the Cowboys Star Marks on a variety of goods and services, Opposers' extensive advertising and publicity of such goods and services, and use by the media of the Cowboys Star Marks when referring to Opposers have contributed to the powerful consumer association between the Cowboys Star Marks and Opposers, and have made the Cowboys Star Marks famous.

11. The Cowboys Star Marks have a high degree of distinctiveness due to the duration and extent of Opposers' use, advertising, and publicity of the Cowboys Star Marks.

12. In addition to Opposers' common law rights in the Cowboys Star Marks, the Cowboys owns, *inter alia*, the following federal trademark registrations:

Registration Number	Mark	International Class(es)	Date of First Use
3,097,072		011 014	1975

		025	
2,984,690		035 036 041 038	1975
2,996,639		004 016 018 020 024	1975
3,094,659		021 027 028 012 009 020	1975
893,942		041	1962
2,770,630		025 041 038	1999
2,687,859		025 041 038	1999
2,656,022		025 041	05/2001

Registration No. 893,942 is incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065.

13. By the application herein opposed, Applicant seeks to register the



designation in International Class 025 for use in connection with “[m]en’s, women’s and children’s clothing, namely, T-shirts, shirts, tank tops, sweatshirts, sweatpants, sleepwear, bathing suits, pants; socks, shorts, hats, [and] caps.”

14. The goods for which Applicant seeks registration are related, and many are identical, to goods in connection with which the Cowboys Star Marks are in use.

15. Applicant filed its intent-to-use application on January 17, 2006, years after Opposers started using the Cowboys Star Marks, and after they had become famous.

16. Applicant owns federal registration 2,864,760, for the designation



in connection with apparel items. Prior to filing Application Serial Number 78/792,639, Applicant altered the star design portion of its designation and adopted a star design identical to the star featured in the Cowboys Star Marks.

17. Opposers will be damaged by the registration sought by Applicant because such registration will dilute the distinctive and famous quality of the Cowboys Star Marks.

18. Opposers will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the designation sought to be registered, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposers. In addition to use of a

star design identical to the star featured in the Cowboys Star Marks, Applicant's




can also be perceived as spelling out the word "F-A-N," which interpretation is likely to enhance confusion among consumers, to whom the word "FAN" will suggest a football or sporting context, particularly in combination with the Cowboys' Star.

19. Registration should be refused pursuant to Sections 2(f) and 43(c) of the Lanham Act, 15 U.S.C. §§ 1052(f) and 1125(c), on the grounds that Opposers will be damaged by the registration sought by Applicant because the registration will dilute the distinctive and famous quality of the Cowboys Star Marks.

20. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), on the grounds that the subject designation so resembles the Cowboys Star Marks used consistently by Opposers in the United States, as to be likely, when used on or in connection with the services identified in the Application, to cause confusion, or to cause mistake, or to deceive, with consequent injury to Opposers and to the public.

21. Registration should be refused pursuant to Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), on the grounds that Applicant's use of the subject designation will falsely suggest a connection between Applicant and Opposers named herein, to the damage of Opposers.

WHEREFORE, Opposers believe they will be damaged by the registration by

Applicant of the designation  for the goods identified in Application Serial Number 78/792,639 and respectfully request that the opposition be sustained and registration of said designation be denied.

Pursuant to 37 C.F.R. §2.6(a)(17), Opposers respectfully request that the \$600.00 statutory filing fee and any additional amount be charged to Deposit Account No. 50-3778.

All communication should be addressed to Opposers' counsel, Quinn Emanuel

Urquhart Oliver & Hedges, LLP, at the below-stated address.

Dated: New York, New York
March 12, 2007

Respectfully submitted,

Quinn Emanuel Urquhart Oliver & Hedges,
LLP

By: _____

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